

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GREGORY PHIPPS and BRIAN MENSING,)	
individually and on behalf of all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
v.)	No.: 3:17-CV-97-TAV-HBG
)	
CHARIOTS OF HIRE, INC., and JOHN)	
MARK PARSONS,)	
)	
Defendants.)	

ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is an Unopposed Motion to Accept Late Filed Consent to Join Lawsuit [Doc. 33]. For grounds, the Motion states that the deadline for putative class members to opt in this matter was December 29, 2017. On December 14, 2017, Plaintiffs' counsel received the returned, undeliverable mail containing the Notice and Consent Form for putative plaintiff Shawna Chance ("Chance"). The Motion explains that due to the time it took to locate her new address, as well as the holidays, Chance did not receive the second mailing until approximately December 29, 2017, and that upon mailing, Chance executed the Consent to Join and mailed it back with a postmark date of January 9, 2018. The Motion continues that on January 11, 2018, Plaintiffs' counsel notified Defendants of the late notice and inquired whether they would waive objections to the late-filed consent form. On March 2, 2018, the parties conferred and agreed judicial economy would be better served by permitting Chance to join this action as opposed to filing a separate lawsuit.

Courts typically consider five factors in determining whether to include an opt-in plaintiff who filed his/her consent form after the deadline: “(1) whether good cause exists for the late submissions; (2) prejudice to the defendant; (3) how long after the deadline passed the consent forms were filed; (4) judicial economy; and (5) the remedial purposes of the FLSA.” *Lykins v. First Acceptance Corp.*, No. 3:13-CV-01374, 2015 WL 2367155, at *1 (M.D. Tenn. May 18, 2015); *Hurt v. Commerce Energy, Inc.*, No. 1:12-CV-758, 2014 WL 494571 (N.D. Ohio Feb. 6, 2014). The Court has considered the above five factors and finds that they weigh in favor of allowing Chance to proceed in this lawsuit. Plaintiffs explain that the original Notice and Consent Form was returned as undeliverable and that it took additional time to locate Chance’s new address. Further, the deadline only recently expired, the parties agree that judicial economy is served by allowing her to proceed in this suit, and the remedial purposes of the FLSA weigh in favor of allowing her to proceed in this action. Finally, Plaintiffs have represented that Defendants do not object to the instant request. Accordingly, the Court will hereby **GRANT** the Unopposed motion to Accept Late File Consent to Join Lawsuit [**Doc. 33**].

IT IS SO ORDERED.

ENTER:


United States Magistrate Judge